IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5193 OF 2005

Prafula Kantilal Rokadia ..Applicant

Vs.

State of Maharashtra & Anr. ...Respondents

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Mr.A.H.H.Ponda Advocate for Applicant
Mr.V.B.Konde-Deshmukh A.P.P. for the State
Mr.Sandeep Velkar, Mr.S.V.Uttam and Ms.Swati Pandit i/b Mulla & Mulla & Craigie Blunt & Caroe for Respondent No.2

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : SEPT. 14,2005

P.C.

1. Heard the learned advocate for the applicant, learned advocate for the respondent no.2-original complainant and the learned A.P.P. for the State.

2. The applicant is seeking quashing of process issued by the learned Spl.Magistrate, Small Causes Court, Mumbai in Case No.260/S/2005. In the said case process was issued against the applicant under

Section 138 r.w. 141 to 144 of Negotiable Instruments Act.

3. For the reasons recorded in the decision of this Court in the case of **V.K.Jain and others Vs. Pratap V. Padode reported in 2005(3) Mh.L.J.778,** I am of the opinion that the applicant has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicant prefers a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicant to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the applicant makes a statement that the necessary revision will be preferred within four weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of four weeks. It is made clear that the stay is granted only in respect of the present applicant and the trial in respect of the other accused may

go on.

. The learned advocate for the respondent no.2-complainant fairly states that no objection will be raised in respect of delay in filing the revision.

5. On the necessary revision being preferred by the applicant before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties. Looking to the fact that the case is of the year 1996, the revision be disposed of as far as possible within four months from the date of filing of the revision.

6. Criminal Application is disposed of.

7. Authenticated copy be issued to the parties.

[V.K.TAHILRAMANI,J.]